

DO NOT ENTER: /JW/ (01/13/2009)

**RECEIVED
CENTRAL FAX CENTER****DEC 03 2008**

PTO/SB/21 (09-08)


Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	110/696,148	
	Filing Date	10/29/2003	
	First Named Inventor	LEE	
	Art Unit	2151	
	Examiner Name	WALSH	
Total Number of Pages in This Submission	10	Attorney Docket Number	IT-03-006

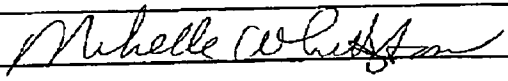
ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MITEL NETWORKS CORPORATION		
Signature			
Printed name	MICHELLE WHITTINGTON		
Date	DECEMBER 3, 2008	Reg. No.	43,844

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	MICHELLE WHITTINGTON	Date	DECEMBER 3, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

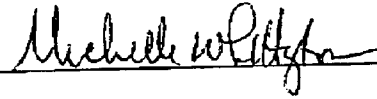
DO NOT ENTER: /JW/ (01/13/2009)

**RECEIVED
CENTRAL FAX CENTER****DEC 03 2008**

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING ^{Faxed} ~~MAILED~~ TO THE U.S. PATENT AND TRADEMARK OFFICE AS ~~FIRST CLASS MAIL IN AN ENVELOPE~~ ADDRESSED TO MAIL STOP APPEAL BRIEF-PATENTS, COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450 ON THE DATE INDICATED BELOW:

Date of Mailing : 12-3-08
FAX

By:



Michelle Whittington

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Application of: **LEE**Atty. Docket No: **IT-03-006**Appln. No.: **10/696,148**Group Art Unit: **2151**Filed: **10/29/2003**Examiner: **WALSH, JOHN B.**Title: **ENDPOINT STATUS NOTIFICATION SYSTEM**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This is responsive to the Examiner's Answer dated October 3, 2008.

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

Status of Claims:

Claims 1-18 have at one time, been pending in the present application. Claims 3 and 10 were cancelled. Thus, claims 1, 2, 4-9 and 11-18 remain pending and stand finally rejected and are on appeal. The Claims **Appendix A** attached to Appellant's Appeal Brief contain a copy of the claims subject to this appeal.

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

Grounds of Rejection to be reviewed on Appeal:

The only issue for consideration on this Appeal is:

- (A) Whether Applicant's claims are anticipated by the Mullaly reference (US Patent No. 6,553,341) under 35 USC §102(a).

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

Arguments:

All arguments and legal standards recited in Appellant's Appeal Brief are to be maintained and the following are supplemental.

On page 10 of the Examiner's Answer, the Examiner states "the structure of Mullaly's send mail button performs the same function as appellant's "call-control option" since it initiates a "telephony-related function" since the email would use telephony infrastructure for communicating." This statement is the crux of the Examiner's arguments in favor of maintaining the Section 102 rejections to Appellant's claims. It is Appellant's belief that the Examiner is not fully appreciating the definition of "call-control option" as it is generally understood in the telecommunications industry and defined in Applicant's specification. Accordingly, this Reply Brief will provide sufficient evidence to the Examiner and the Board that a "call-control option" is not akin to "sending mail" because it does not and cannot perform the same function. Should the Board find that the Examiner's reasoning is flawed and in fact contradicts the plain meaning of the term "call-control option" then the Board will have no option but to overturn the rejections of record and allow the application to issue.

Legal Standard**MPEP 2111****Claim Interpretation: Broadest Reasonable Interpretation**

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

The PTO determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. Of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require the application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1).

The PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

MPEP 2111.01Plain Meaning

The ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313, 75 USPQ2d 1321 (Fed. Cir. 2005). *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir.

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

2003); *Brookhill-Wilk I, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003) ("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.").

In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor.); *ACTV, Inc. v. The Walt Disney Company*, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003).

Argument

The Office is required to interpret claim language consistent with the meaning ascertainable by the specification. Additionally, the Office's interpretation must be consistent with the interpretation that those skilled in the art would reach. Finally, absence an express intent by the Applicant, the claim interpretation is presumed to take on the ordinary and customary meaning attributed by those of ordinary skill in the art, and such meaning may be gleaned from reference sources.

Accordingly, the Office must interpret the term "call-control option" consistent with any meaning ascertainable by the specification, by those of ordinary skill in the art, and by an appropriate meaning from a reference source.

Newton's Telecom Dictionary defines "call control" as the term used by the telephone industry to describe the setting up, monitoring and tearing down of telephone calls. A person or a computer can do it via the desktop telephone or a computer attached

APPELLANT'S REPLY BRIEF

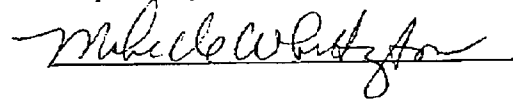
U.S. Appln. No. 10/696,148

CONCLUSIONS

For the reasons stated in Appellant's Appeal Brief and as stated above, it is respectfully submitted that all of the pending claims are patentable over the cited prior art and the Board is respectfully requested to overturn the rejections of record and allow this application to issue.

The Commissioner is hereby authorized to charge any additional fees and credit any overpayment associated with this Appeal to Inter-Tel Deposit Account No. 502721.

Respectfully submitted,



Michelle Whittington
Appellant's Attorney
Registration No. 43,844
Inter-Tel (Delaware), Inc.

Date: December 3, 2008

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148'

to that telephone, or the computer attached to the desktop phone line. *Newton's Telecom Dictionary*, 19th edition, 2003.

Wikipedia defines "call control" as follows:

"In telephony, call control refers to the software within a telephone switch that supplies its central function. Call control decodes addressing information and routes telephone calls from one end point to another. It also creates the features that can be used to adapt standard switch operation to the needs of users. Common examples of such features are "Call Waiting", "Call Forward on Busy", and "Do Not Disturb". *Wikipedia, the free encyclopedia*, http://en.wikipedia.org/wiki/Call_control, 12/2/2008.

The Network Dictionary defines a "call" as the attempted connection to establish a voice communication between two people, also known as a "phone call." *Network Dictionary (Telecom)*, <http://www.networkdictionary.com/telecom/c.php>, 12/3/08.

Referring to Applicant's specification, "the call control commands provide the user a means to immediately perform a call function related to the received status notification. For instance, if the status notification stated, "Jeff's status has changed to Available," then the user may have the option to call Jeff immediately by selecting the "Call" option on the notification." [Par. 0064]. "The user receives a status notification such as the popup alert of Figure 5A due to Sheila's reportable event. In addition, the popup alert may include a call control function related to the event. The current embodiment includes a "Call" hotspot that when activated immediately places a call from the user to Sheila Brown's extension or number...The user is further provided with call handling options only pertinent to the call to Sheila, such as hangup, leave a message, and leave a voicemail." [Par. 0048]. "In the last example, the call control commands

APPELLANT'S REPLY BRIEF

U.S. Appln. No. 10/696,148

provided include "Listen to message" such as a voice message, and "Respond to message," such as return the call to Bill." [Par. 0053].

It is clear from Applicant's specification that "*call-control* option" is intended to be defined in accordance with a call, such as a telephone call. Applicant's specification is devoid of any suggestion that "*call-control* option" is intended to be extended to "mail", "email" or any other means of communication that would fall under the scope of "send mail." Further, it is clear from the above reference sources that "*call-control*" is defined with respect to telephone calls and does not extend to "mail" or "email." The plain meaning of the term "*call-control*" clearly indicates it refers to a phone call (hence "call-control"). Applicant's intended meaning of the term "*call-control*" is consistent with the any interpretation of those of ordinary skill in the art as evidenced by the definitions directly from telecommunication references. Accordingly, the Board must interpret the term "*call-control* option" to encompass only a "call" and must disagree with the Examiner's flawed interpretation that "send mail" performs the same function as "*call-control* option".